

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No.: 1:21-cv-00758-CCE-JEP

SEAN NEVILLE, AS ADMINISTRATOR OF
THE ESTATE OF JOHN ELLIOTT NEVILLE,

Plaintiff,

v.

WELLPATH LLC; and MICHELLE L.
HEUGHINS, RN, in her individual and official
capacity;

Defendants.

JOINT SUPPLEMENTAL RULE 26(f) REPORT

Plaintiff Sean Neville, as administrator of the Estate of John Elliott Neville and Defendants Wellpath LLC and Michelle L. Heughins file this Joint Supplemental Rule 26(f) Report pursuant to the Court's Order dated July 20, 2022 ("Order") (Doc. 84), and state as follows:

1. Pursuant to the Order, a telephone conference was held on July 26, 2022, and was attended by Whitney Pakalka on behalf of Plaintiff and Rebecca Thornton on behalf Defendants Wellpath, LLC and Michelle L. Heughins.

Prior to that telephone conference, Plaintiff's counsel circulated a draft schedule of proposed deadlines for discovery and dispositive motions in light of the Court's order granting Ms. Heughins' motions for a limited stay of discovery and to continue the trial

from its original April 3, 2023 setting. Following the call, Defendants' counsel proposed slight revisions to the draft schedule, which revisions were accepted by Plaintiff's counsel.

Counsel engaged in further conferrals about the contents of this Joint Supplemental Rule 26(f) report between August 1 and 3, 2022.

The parties have also conferred regarding the Court's suggestion that some claims could be resolved in the absence of Ms. Heughins' testimony regarding the events surrounding Mr. Neville's death in early December 2019. The parties are grateful for the Court's suggestion of how they might move certain claims forward during the stay, but ultimately believe that it will not be efficient or economical to attempt to fully litigate some claims prior to the end of the stay. However, the parties will continue to diligently conduct discovery during the stay so that the only tasks that will remain when the stay is lifted on December 14, 2022, will be to serve Ms. Heughins' substantive written responses to discovery, take Ms. Heughins' deposition, complete expert discovery, and file any dispositive motions.

As a result of the foregoing conference and subsequent communications, the parties have agreed upon the contents of this Joint Supplemental Rule 26(f) Report.

2. **Amended Discovery Plan**: The parties propose the following plan for completing discovery in light of the limited stay of discovery as to Ms. Heughins:

- A. The "commencement date" of discovery was February 24, 2022.
- B. Discovery was placed on a case-management track designated in Local Rule 26.1(a) as Exceptional.

- C. The parties have already served their Rule 26(a)(1) Initial Disclosures.
- D. The date for the completion of all discovery (general and expert) shall now be May 2, 2023.
- E. As to topics for which discovery is stayed as to Ms. Heughins, Plaintiff will serve on Ms. Heughins' written discovery by August 15, 2022, with Ms. Heughins' to provide any written objections (other than any Fifth Amendment privilege objections) within 30 days thereof.
- F. Ms. Heughins must provide substantive written responses and/or any Fifth Amendment privilege objections to the currently stayed written discovery on or before December 14, 2022.
- G. Ms. Heughins' deposition is tentatively scheduled for January 12, 2023.
- H. Expert disclosures required by Rule 26(a)(2)(B) and disclosures by Rule 26(a)(2)(C) are due during the discovery period as follows:
 - i. Plaintiff's initial expert disclosures by February 15, 2023.
 - ii. Defendants' rebuttal expert disclosures by March 21, 2023.
 - iii. Any expert reply reports by April 11, 2023.
- I. The parties continue to agree that the Plaintiff, on the one hand, and Defendants, collectively on the other hand, may serve 20 requests for admission and 20 interrogatories on each other.
- J. The parties continue to agree that each party shall be entitled to a maximum of 10 depositions each, exclusive of experts. Each deposition shall be limited

to a maximum of seven (7) hours of record time, unless extended by agreement of the parties. Depositions shall be scheduled to take place before the date for completion of discovery.

K. Supplementation will be as provided in Rule 26(e) or as otherwise ordered by the Court.

3. **Mediation:** The parties have agreed that a second mediation should be conducted early in the period in which the limited stay is in place. The parties agree that the mediator shall be René Stemple Trehy.

4. **Preliminary Deposition Schedule:** The parties agree that they will take the depositions of the parties (except for Ms. Heughins) and/or their representatives during the limited stay of discovery as to Ms. Heughins.

5. **Other Items:**

A. Dispositive motions shall be filed no later than June 16, 2023.

6. **Trial:** The Court has set this matter for jury trial on the master calendar term that begins on October 2, 2023. Preliminarily and for planning purposes, the parties expect that trial will take 10 days.

Respectfully submitted, this the 4th day of August, 2022.

/s/ Whitney R. Pakalka

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*Attorneys for Defendants Wellpath, LLC and
Michelle L. Heughins*

CERTIFICATE OF SERVICE

I hereby certify that on this date, the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all attorneys of record.

This the 4th day of August, 2022.

s/ Whitney R. Pakalka

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